

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution ALJ 176-3090
Administrative Law Judge Division
June 27, 2002

R E S O L U T I O N

RESOLUTION ALJ 176-3090. Ratification of preliminary determinations of category for proceedings initiated by application. The preliminary determinations are pursuant to Article 2.5, Rules 4, and 6.1 of the Commission's Rules of Practice and Procedure. (See also Rule 63.2(c) regarding notice of assignment.)

The Commission's rules and procedures which implement the requirements of Senate Bill (SB) 960 (Leonard, ch. 96-0856) are, for the most part, found in Article 2.5 of our Rules of Practice and Procedure. The rules and procedures were adopted by the Commission in D.97-11-021, which describes more fully the background to the development of these rules. Rule 4 describes the formal proceedings to which the SB 960 rules (Article 2.5) apply. Rule 6.1 requires the Commission to preliminarily determine a proceeding's category, whether the proceeding requires a hearing, and designate an Assigned Commissioner and Administrative Law Judge. Rule 6.1(a) states that the preliminary determination of category is not appealable but shall be confirmed or changed by Assigned Commissioner's ruling. Unless and until a preliminary determination is changed by such ruling, the preliminary determination of category governs the applicability of the other reforms that SB 960 requires. Rule 63.2 provides for petitioning the Commission to reassign a proceeding to another administrative law judge. Rule 63.2(c) establishes the time for filing such a petition. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

The Categories

SB 960 makes sweeping changes in many aspects of the Commission's practices in an effort to improve the quality and timeliness of Commission decision making. It creates three categories of proceedings: adjudicatory, ratesetting, and quasi-legislative. The

applicability of many of the changes it requires depends upon the category assigned to the proceeding. For example, the ex parte rules which apply differ if the proceeding is categorized as adjudicatory rather than quasi-legislative. The Legislature defined each of these procedural categories in Section 7 of SB 960. Consistent with these definitions, the rules provide that:

“‘Adjudicatory’ proceedings are: (1) enforcement investigations into possible violations of any provision of statutory law or order or rule of the Commission; and (2) complaints against regulated entities, including those complaints that challenge the accuracy of a bill, but excluding those complaints that challenge the reasonableness of rates or charges, past, present, or future.

“‘Ratesetting’ proceedings are proceedings in which the Commission sets or investigates rates for a specifically named utility (or utilities), or establishes a mechanism that in turn sets the rates for a specifically named utility (or utilities). ‘Ratesetting’ proceedings include complaints that challenge the reasonableness of rates or charges, past, present, or future. For purposes of this Article, other proceedings may be categorized as ratesetting as described in Rule 6.1(c).

“‘Quasi-legislative’ proceedings are proceedings that establish policy or rules (including generic ratemaking policy or rules) affecting a class of regulated entities, including those proceedings in which the Commission investigates rates or practices for an entire regulated industry or class of entities within the industry.” (Rules 5(b), 5(c), and 5(d).)

Mixed or Unclear Category Proceedings

For a proceeding that may fall into more than one category, the rules allow parties to recommend that the Commission pick the most suitable category, or to recommend dividing the subject matter of the proceeding into different phases or one or more new proceedings, each with its own category. The rules provide that a proceeding that does not clearly fit into *any* of SB 960’s defined categories will be conducted under the rules applicable to the ratesetting category. As such a proceeding matures, the Commission may determine that the rules applicable to one of the other categories, or some hybrid of those rules, would be better suited to the proceeding.

As stated in D.97-06-071, ratesetting proceedings typically involve a mix of policymaking and factfinding relating to a particular public utility. Because proceedings that do not clearly fall within the adjudicatory or quasi-legislative categories likewise typically involve a mix of policymaking and factfinding, the ratesetting procedures are, in general, preferable for those proceedings.

Next Steps

As stated above, this preliminary determination of category is not appealable. Once interested parties have had an opportunity to respond to the initiating party's proposed category, the preliminary determination shall be confirmed or changed by Assigned Commissioner's Ruling pursuant to Rule 6(a)(3). This Assigned Commissioner Ruling may be appealed to the full Commission pursuant to Rule 6.4(a). Parties have 10 days after the ruling is mailed to appeal. Responses to the appeal are allowed under Rule 6.4(b), and must be filed and served not later than 15 days after the ruling is mailed. The full Commission will consider the appeal.

Any party, or person or entity declaring an intention to become a party is entitled to petition for reassignment of the proceeding to another Administrative Law Judge, as described in Rule 63.2. Such a petition must be filed no later than 10 days after notice of the assignment. For purposes of Rule 63.2(c), notice of the assignment is the day the assignments associated with this preliminary categorization document appear in the Daily Calendar following the Commission business meeting.

Conclusion

The Commission has reviewed the initial pleading of the utility applicants listed in the attached schedule and has made a preliminary determination of category and need for hearing, consistent with the requirements and definitions of Article 2.5 of its rules.

IT IS ORDERED that each proceeding listed in the attached schedule is preliminarily categorized, and the need for a hearing is noted.

I certify that the foregoing resolution was duly introduced, passed, and adopted at a conference of the Public Utilities Commission of the State of California held on _____, the following Commissioners voting favorably thereon:

WESLEY M. FRANKLIN
Executive Director

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3090 (6/27/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-05-058 CALIFORNIA-AMERICAN WATER COMPANY, (U 210-W), for an Order (1) Expanding its existing Certificate of Public Convenience and Necessity to Include the Provision of Wastewater Services to the Public, including the right to recover rates for such services; (2) Authorizing it to create its Monterey Wastewater Division and Service Area and to acquire the Wastewater assets of and to serve Wastewater customers in each of the following three Monterey County-Owned Systems: CSA 72 - Las Palmas Ranch; CSA 10 - Laguna Seca Ranch and Carmel Valley County Sanitation District; and (3) Authorizing it to File a Single System-Wide Rate Schedule and related Tariffs for all three acquired Wastewater Systems in its Monterey Wastewater Division	Ratesetting	Ratesetting	NO
A02-05-059 ALAMEDA CORRIDOR - EAST CONSTRUCTION AUTHORITY (ACE), for an order authorizing the modification of a grade separated crossing (roadway overpass) at Humane Way, over the Union Pacific Railroad Company's (UPRR) existing Los Angeles Subdivision main line through an addition of a third track crossing under the Humane Way Bridge to accommodate the Alhambra Subdivision main line, as part of the Temple Avenue Track Diversion Project eliminating two at grade crossings, in the City of Pomona, County of Los Angeles	Ratesetting	Ratesetting	NO
A02-05-061 NEW WORLD TELECOM INTERNATIONAL INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A02-05-062 ALAMEDA CORRIDOR - EAST CONSTRUCTION AUTHORITY, (ACE), for an order authorizing the modification of a grade separated crossing (roadway overpass) at SR-57 (Orange Freeway), over the Union Pacific Railroad Company's (UPRR) existing Los Angeles Subdivision main line through an addition of a third track crossing under the SR-57 Bridge to accommodate the Alhambra Subdivision main line, as part of the Temple Avenue Track Diversion Project eliminating two at grade crossings, in the City of Pomona, County of Los Angeles	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3090 (6/27/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-05-063 ALAMEDA CORRIDOR - EAST CONSTRUCTION AUTHORITY, for an order authorizing the modification of a grade separated crossing (roadway overpass) at Temple Avenue, over the Union Pacific Railroad Company's (UPRR) existing Los Angeles Subdivision main line through an addition of a third track crossing under the Temple Avenue Bridge to accommodate the Alhambra Subdivision main line, as part of the Temple Avenue Track Diversion Project eliminating two at grade crossings, in the City of Pomona, County of Los Angeles	Ratesetting	Ratesetting	NO
A02-05-064 HUSSEN ALEMU DESTA, dba DELTA AIRPORT SHUTTLE, for authority to operate as a Passenger stage corporation between points in San Francisco, Alameda, Contra Costa, Santa Clara, Solano, Marin and San Mateo Counties, and the San Francisco, Oakland and San Jose International Airports; and to establish a Zone of Rate Freedom	Ratesetting	Ratesetting	NO
A02-05-065 CITY OF RICHMOND, for an Order preserving the wigwag warning devices at the Richmond Avenue Crossing in the City of Richmond, Contra Costa County, California	Adjudicatory	Adjudicatory	YES
A02-06-004 NISHTY CORP., dba NISHTY TELECOM, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A02-06-005 ALAMEDA CORRIDOR - EAST CONSTRUCTION AUTHORITY (ACE), for an order authorizing the modification of a grade separated crossing (roadway overpass) at SR-71 (Chino Valley Freeway), over the Union Pacific Railroad Company's (UPRR) existing Los Angeles Subdivision main line through an addition of a third track crossing under the SR-71 Bridge to accommodate the Alhambra Subdivision main line, as part of the Temple Avenue Track Diversion Project eliminating two at grade crossings in the City of Pomona, County of Los Angeles	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3090 (6/27/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-06-006 ALAMEDA CORRIDOR - EAST CONSTRUCTION AUTHORITY (ACE), for an order authorizing the modification of a grade separated crossing (roadway overpass) at SR-71 (Chino Valley Freeway), over the Union Pacific Railroad Company's (UPRR) existing Alhambra Subdivision main line through an addition of a storage track crossing under the SR-71 Bridge, as part of the Temple Avenue Track Diversion Project eliminating two at grade crossings in the City of Pomona, County of Los Angeles	Ratesetting	Ratesetting	NO
A02-06-007 FORESTHILL TELEPHONE CO., ROSE A. HOEPER, for Approval of the Involuntary Transfer of Control of Foresthill Telephone Co. (U-1009-C) to Rose A. Hooper	Ratesetting	Ratesetting	NO
A02-06-008 NEXT COMMUNICATION, INC., which will do business in California as Next Telecommunications, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A02-06-009 SINGER, WILLIAM, dba BILL'S BUS, for a Certificate of Public Convenience and Necessity to Operate a Passenger Stage Corporation between Isla Vista and Santa Barbara, California; and between San Diego and Pacific Beach, California	Ratesetting	Ratesetting	NO
A02-06-011 TALK UNLIMITED NOW, INC., for a Certificate of Public Convenience and Necessity to Offer Local Exchange Services within the State of California	Ratesetting	Ratesetting	NO
A02-06-012 BLUE & GOLD FLEET, L.P., , a limited partnership, to increase fare levels for the transportation of passengers in vessel common carrier service between Alameda/Oakland, on the one hand, and authorized points in San Francisco and Angel Island State Park, on the other hand	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3090 (6/27/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-06-013 BLUE & GOLD FLEET, L.P., a limited partnership, to increase fare levels for the transportation of passengers in vessel common carrier service between Angel Island, on the one hand, and authorized points in San Francisco, on the other hand	Ratesetting	Ratesetting	NO
A02-06-014 BLUE & GOLD FLEET, L.P., a limited partnership, to increase fare levels for the transportation of passengers in vessel common carrier service between Sausalito, on the one hand, and authorized points in San Francisco, on the other hand	Ratesetting	Ratesetting	NO
A02-06-015 BLUE & GOLD FLEET, L.P., a limited partnership, to increase fare levels for the transportation of passengers in vessel common carrier service between Tiburon, on the one hand, and authorized points in San Francisco, on the other hand	Ratesetting	Ratesetting	NO
A02-06-016 AIRESRING, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A02-06-017 1-800-RECONEX, INC., (U 5835-C) for a Certificate of Public Convenience and Necessity to Provide Facilities-Based Local Exchange Telecommunication Services within the State of California	Ratesetting	Ratesetting	NO
A02-06-019 PACIFIC GAS AND ELECTRIC COMPANY, (U 39-M), for Authority to Increase Electric and Gas Revenue Requirements to Reflect an Attrition Revenue Adjustment for the year 2002	Ratesetting	Ratesetting	NO
A02-06-021 SAN DIEGO GAS & ELECTRIC COMPANY, (U 902-M), for Authority to Extend its Short-Term Borrowing Authorization of an aggregate amount not to exceed \$200,000,000 through December 31, 2007, in addition to that amount otherwise authorized by Public Utilities Code Section 823	Ratesetting	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3090 (6/27/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-06-022 VICERA COMMUNICATIONS, INC., dba GENESIS COMMUNICATIONS INTERNATIONAL, (U 5477-C), for a Certificate of Public Convenience and Necessity to Provide Limited Facilities-Based Local Exchange Telecommunications Services within the Service Territories of Pacific Bell and Verizon	Ratesetting	Ratesetting	NO
A02-06-025 AJMER SINGH, dba AVON AIRPORTER SHUTTLE SERVICE, for Authority to Extend the Areas of its Passenger Stage Operations from points in the counties of San Francisco, Alameda, Santa Clara and Contra Costa, and the San Francisco, Oakland and San Jose International Airports to include points in the following additional counties, to wit: Solano, Marin, Napa and San Mateo	Ratesetting	Ratesetting	NO
A02-06-026 PACIFIC GAS AND ELECTRIC COMPANY, (U 39-M), for Expedited Approval under Public Utilities Code Section 851 to Grant an Easement over PG&E Fee Property to the City of Suisun City for construction, Public Access and Maintenance of a Bicycle and Pedestrian Path	Ratesetting	Ratesetting	NO
A02-06-028 THE LEAGUE OF CALIFORNIA CITIES, Petition for Modification of Resolution E-3757	Ratesetting	Ratesetting	NO
A02-06-029 SUREWEST TELE VIDEO, WESTERN INTEGRATED NETWORKS OF CALIFORNIA OPERATING LLC (U 6299-C), Emergency Joint, for Expedited Ex Parte Approval of the Assignment of Assets and Authorization to Provide Telecommunications Services	Ratesetting	Ratesetting	NO
A02-06-030 NATIONAL DIRECTORY ASSISTANCE, LLC, for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A02-06-031 TELUNIDOS, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO

PRELIMINARY DETERMINATION SCHEDULE

Resolution ALJ 176-3090 (6/27/02)

NUMBER TITLE	PROPOSED CATEGORY	PRELIM. CATEGORY	HEARING
A02-06-033 DEL ORO WATER COMPANY, (U 61-W), for authority to borrow approximately \$250,000 (and to issue evidence of indebtedness in connection therewith) in order to pay the costs of determining compliance with the California Environmental Quality Act of a proposed capital improvement project and for authority to recover all such costs by applying monthly surcharges to customers in its Lime Saddle, Paradise Pines and Magalia Districts in Butte County, California	Ratesetting	Ratesetting	NO
A02-06-034 TODAY'S RESOURCES, INC., for Registration as an Interexchange Carrier Telephone Corporation pursuant to the provisions of Public Utilities Code Section 1013	NDIEC Registration Application	Ratesetting	NO
A02-06-035 SOUTHERN CALIFORNIA GAS COMPANY, (U 904-G), Regarding Year Eight (2001-2002) of its Gas Cost Incentive Mechanism	Ratesetting	Ratesetting	YES
A02-06-036 STATE OF CALIFORNIA, DEPARTMENT OF TRANSPORTATION, for authorization to construct a new Overhead structure parallel to the existing Plumas-Arboga OH (PUC No. 4-0170.30-A, DOT No. 834939Y) on State Route 70 over the tracks of the Union Pacific Railroad Company in the County of Yuba	Ratesetting	Ratesetting	NO